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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,431	08/10/2001	Alberto Gonzalo Perez Roldan	P56378	4119

7590

04/02/2003

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EXAMINER

MEDLEY, MARGARET B

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 04/02/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/925,431

Applicant(s)

PEREZ ROLDAN, ALBERTO  
GONZALO

Examiner

Margaret B. Medley

Art Unit

1714

#7

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8 and 10-40 is/are rejected.
- 7) ☒ Claim(s) 4 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3 and 4.
- 4) ☒ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Claim 33 is objected to because of the following informalities: The spelling of term "extending" should be corrected in line 4. Appropriate correction is required.

Claims 1-2, 6-7, 11, 13, 15, 21, 24, 31 and 34 are objected to because of the following informalities: The term "CS T@" should be corrected to read as ---cSt@---.

Appropriate correction is required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The use of the viscosity being in both viscosity and centistokes and the temperature being in both Centigrade and Fahrenheit in each of claims 1-2, 6-7, 11, 13, 15, 21, 24, 31 and 34 are indefinite and confusing.

The temperature being in both Centigrade and Fahrenheit in each of claims 3 and 6 are indefinite and confusing.

The "further comprised of "phrase is indefinite and confusing in each of claims 2-5, 7-10, 12, 14, 30 and 40, and may overcome with the use of the phrase ---wherein---.

Claims 5, 10, 12, 14, 16, 18 and 20 appear to duplicate one another and therefore are indefinite. Applicant should consider canceling all of the claims except for one.

Art Unit: 1714

Claims 1, 11 and 19 are indefinite in that they appear to duplicate one another and all the claims except for one should be cancelled.

Claims 6, 13, 15 and 17 are indefinite in that they appear to duplicate one another and all the claims except for one should be cancelled.

Claims 30 and 40 are indefinite in that they appear to duplicate one another.

The term "compound" in each of claims 1-20 is indefinite and confusing in that it appears that a composition is being used.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6-8, 11, 13, 15, 17, 19, 21, 23-24, 31 and 33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Morrison et al (Morrison) 5,879,694.

Morrison teaches and discloses a composition for a candle and a candle with a wick comprising 20 or 15 weight percent of Kraton® 1650 tri-block copolymer and 79.99 or 84.99 weight percent mineral oil, column 3, lines 50-57 and Example I of Table I for blends 2 and 4 and Example 2 that anticipate the instance claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5, 10, 12, 14, 16, 18, 20, 22, 25-30, 32 and 34-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morrison et al (Morrison) 5,879,694 and 6,066,329.

Morrison further teaches and discloses cotton wick, plurality of portions, coloring agents, aromatic fragrance and decorative additives, columns 7 and 8 of '694 and '329 that render obvious instant claims, 22, 25-29 and 34-39. Morrison's broad range for 70 to 98 weight percent hydrocarbon oil and 2-30 weight percent copolymer block encompasses the 83.8% hydrocarbon oil and 16.2% copolymer block of the instant claims 5, 10, 12, 14, 16, 18, 20, 30 and 40 rendering the instant claims obvious in the absent of evidence of record to the contrary.

Claims 4 and 9 appear to contain allowable subject matter.

The prior cited but not applied further teaches candle compositions and candles comprising components of the same nature as those of the instant claims.

Art Unit: 1714

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is (703) 308-2518. The examiner can normally be reached on Monday--Friday from 7:30 a.m. to 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

M.B. Medley/dh  
March 31, 2003

  
MARGARET MEDLEY  
PRIMARY EXAMINER